



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

Meahan E. Parker
Executive Director
Society of Environmental Journalists
1629 K Street NW, Suite 300
Washington, D.C. 20006

Dear Director Parker:

On behalf of the Administrator of the U.S. Environmental Protection Agency, we write in response to your letter dated, June 26, 2019. Together we manage the Agency's National Freedom of Information Act Office, which advises the Agency on legal issues pertaining to FOIA requests, coordination, and project management. Additionally, we are the two career attorneys tasked with providing the recommendations to update the Agency's FOIA regulations.

This week EPA finalized an updated FOIA regulation that brings the Agency into compliance with a series of Congressional amendments. Unfortunately, a series of false and misleading claims have relayed inaccurate information to the public about this updated regulation. The Agency believes it is important to address these significant misrepresentations and emphasize that the update to the Agency's FOIA regulation in no way expands or increases the authority of political officials in the FOIA process. The Agency's updated regulation does not grant political officials' additional authority to review or withhold FOIA documents, their authority will remain consistent with the authority granted to them under the past regulation.

1. EPA did not expand political officials' oversight of FOIA responses.

EPA's updated FOIA regulation did not change the political officials with FOIA decisionmaking authority or expand their authority.

In fact, the FOIA decisionmakers identified in EPA's updated regulation are nearly identical to the list in EPA's old regulations at 40 CFR 2.104(h).

EPA's updated regulation now expressly lists the Administrator, who always had full FOIA decisionmaking authority under the statute, itself. The updated regulations have not increased or otherwise altered the Administrator's authority to make decisions under FOIA.

EPA's updated regulation also expressly lists the Deputies in Program and Regional Offices. These officials always had FOIA decisionmaking authority under the regulations as "designees." Deputies most frequently include the top career official in each program and regional office. Rather than expanding political officials' oversight – which this language did not do — this change expressly recognizes the role of career officials.

In fact, FOIA responses are rarely, issued by political employees -- to the contrary, such decisions typically are issued at the career director or career branch chief level. The updated regulation is not expected to impact or alter that practice.

2. EPA did not expand political officials' power.

EPA's updated regulation did not and cannot change the statute Congress passed.

FOIA determinations have always included decisions to withhold records or to issue "no records" responses. The updated regulation does not grant more power than EPA's prior regulations. EPA's prior rules provided in section 104(g) that "[a]n adverse determination consists of . . . a determination that a requested record does not exist or cannot be located[.]" EPA's new updated regulation does not state anything more than this.

3. EPA's decision to centralize the intake process will speed FOIA processing, not slow it.

EPA's decision to streamline submission of FOIA requests to its National FOIA Office will allow EPA to ensure consistent and coordinated communication with the public, regions, and program offices.

In 2018, the FOIA Federal Advisory Committee, convened by the National Archives, recommended that federal departments and agencies "centralize FOIA processing where appropriate." Centralized FOIA submission will allow EPA to ensure consistent and coordinated communication with the public, regions, and program offices.

Many other departments and agencies have gone further than EPA in streamlining the FOIA processing, such as Department of State, USAID, Social Security Administration (in the Office of General Counsel), the Securities and Exchange Commission, and Commodity Futures Trading Commission (in the Office of General Counsel), among others. EPA has left the FOIA response decisionmaking authority with the offices that are document custodians. Department of Labor has a similar centralized FOIA submission mailbox and decentralized FOIA processing and response structure.

Centralized FOIA intake and initial review will allow EPA to minimize coordination required for initial assignment of FOIA requests and to ensure consistency in early outreach to requesters. Centralized FOIA intake will allow EPA to gain efficiencies of scale in training, build upon common skills needed to for intake, and enhance counseling and sharing of knowledge and techniques.

4. EPA's decision to publish a final rule does not violate Administrative law

EPA's decision to increase efficiency by providing a single location for the public to submit FOIA requests is a procedural rule that does not require notice and comment under the Administrative Procedure Act.

EPA also published its FOIA updated regulation as a final rule without notice and public comment because EPA had no discretion for the changes mandated by the amendments to FOIA in 2007, 2009, and 2016.

Many other agencies similarly published final rules to implement these amendments without notice and comment. Those include:

- Housing and Urban Development, 82 FR 3619 (01/12/2017)
- NEH, National Foundation on the Arts and the Humanities, 82 FR 44 (01/03/2017)
- U.S. Nuclear Regulatory Commission, 81 FR 96344 (12/30/2016)
- Department of Energy, 81 FR 94915 (12/27/2016)
- U.S. International Trade Commission, 81 FR 86575 (12/01/2016)
- Farm Credit Administration, 81 FR 63365 (09/15/2019)
- Surface Transportation Board, 81 FR 90750 (12/15/2019)
- Office of Special Counsel, 82 FR 15609 (03/30/2017)
- National Labor Relations Board, 82 FR 11748 (02/24/2017)
- National Council on Disability, 81 FR 93791 (12/22/2016)
- Tennessee Valley Authority, 82 FR 41511 (09/01/2017)
- Defense Nuclear Facilities Safety Board, 82 FR 30722 (07/03/2017)

5. EPA regions are still empowered to grant requests

Under the updated regulation regional offices have the authority to grant FOIA requests.

The updated regulation only centralizes the intake of FOIA requests to the National FOIA Office; it does not centralize the searching, reviewing, or production of records.

The updated regulation, like the 2002 regulations, continues to provide regional administrators, their deputies, and delegates the authority to issue final determinations.

Best Regards,



Elise Packard



Timothy R. Epp



Kaizen Event Report-Out

FOIA Process Improvement

20 – 23 FEBRUARY 2018

Team Photo



(left to right): _____

Participants

Role	Name	Function
Executive Sponsor	Kevin Minoli	
Process Owner	Becky Dolph	
OCI Coach	Laura Poole / Tamara Saltman	
Lead facilitator	Greg Sieber	
Co-Facilitator	Barry Angeline	

Role	Name	Function	Name	Function
Team Member	Larry Gottesman	National FOIA Officer	Peter Evanko	ORD FOIA Coordinator – Decentralized Program
Team Member	Wendy Schumacher	National FOIA Program GIS	Stephanie Kercheval	R10 FOIA Officer – Centralized Program
Team Member	Victoria Clarke	FEAT Attorney	Alan Engels	R8 FOIA Officer – Centralized Program
Team Member	Joan Moumbleaux	FEAT GIS	Lisa Price	R6 Deputy Director
Team Member	Jennifer Hammitt	ILPG Attorney	Jessica Wheatley	R5 FOIA Officer – Decentralized Program
Team Member	Lynn Kelly	ILPG Attorney	Gretchen Busterud	R9 DRC
Team Member	Tim Crawford	FOIAonline Manager	Jonathan Lubetsky	OAR FOIA Manager – Centralized Program
Team Member	Brian Thompson	E-Disco Acting DD		EPA-HQ-2019-007635



Project Definition

(Same as information on the Project A3)

Problem Statement:

EPA uses a decentralized model of processing FOIA requests which relies on a variety of different processes across the agency. Simultaneously, the number of FOIA requests that involve more than one office or region has increased significantly in the last several years; which creates significant burden upon agency staff, results in confusion, increases the risk of litigation, affects timeliness of initial interaction with and final response to requestors, and raises uncertainty regarding the application of FOIA across the agency.

Scope:

The Agency's FOIA response process from initial receipt to final closure of request. This includes review of materials/documents collected, requests for support, and product requirements, **E-discovery search and collection services**,

Out of Scope:

but excludes litigation and issues involving **Agency** records management. Appeals to be handled in a later event.

Goal(s): (of the project)

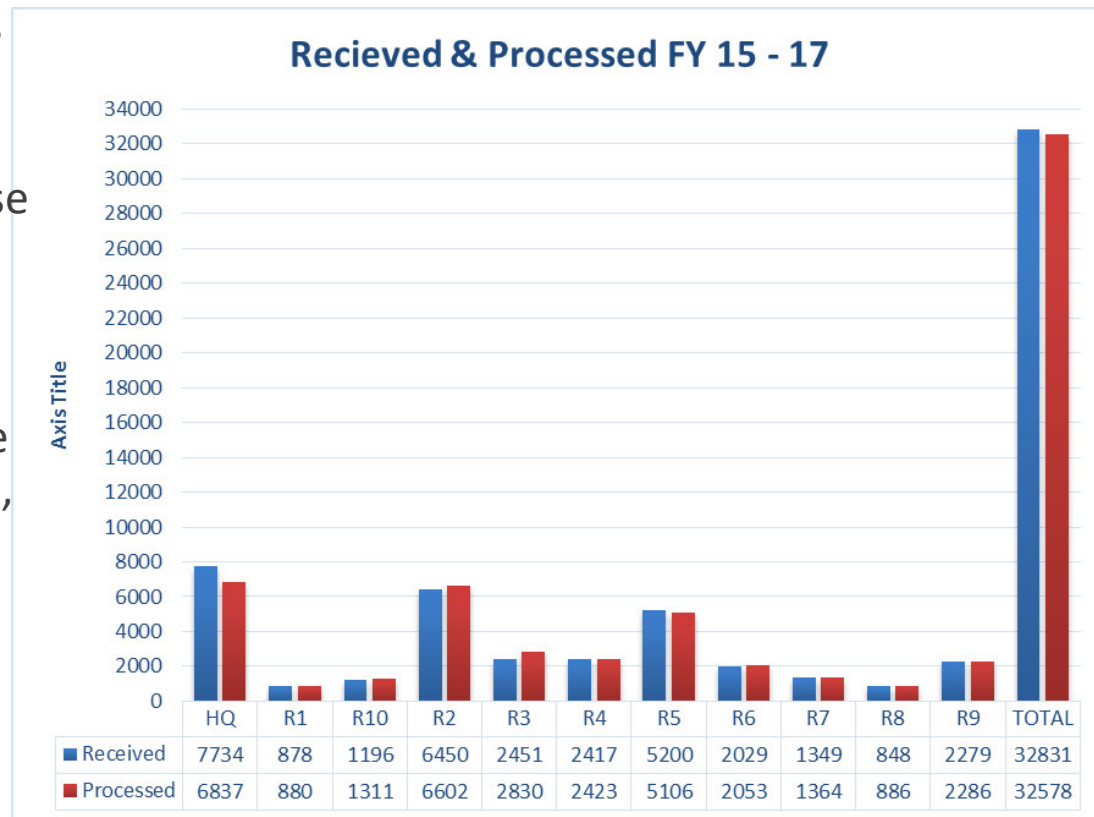
Meet statutory deadlines for responding to FOIA requests on 100% of such requests received by FY22 and maintain no more than 900 pending requests at any one time.

FY19 Target: simple requests – 90% on-time; complex requests – 50% on-time; complex requests w/ agreed upon date – 75% on-time

FY22 Target: simple requests – 100% on-time; complex requests – **75%** 100% on-time; complex requests w/ agreed upon date – 100% on-time

Key Findings

- Under normal circumstances, EPA has ability to process FOIA requests on pace with annual load
- Special circumstances and spikes cause backlogs that build over time
- High degree of inconsistency in processing
- Opportunities for improvement at the front of the process (submission form, intake, triage)
- Opportunities for improvement in streamlining reviews
- Lack of resources is a concern
- Disconnected, not user friendly information systems are a problem
- Increasing the capability of the people will make a big difference



Daily Activities

20 – 23 February



Current State Process

- Decentralized
- Inconsistent (23 variations)
- Hard to measure
- Pull – Push System
- Wait
 - Caused by Expedites
 - eDiscovery
 - Clarifications
 - Inter-Agency Reviews
 - Awareness Notification
- WIP
 - 4-20 per person
- Rework
 - 5 – 10% Estimate
- R8 and OAR have implemented One Piece Flow

CURRENT STATE

• Expedites are the priority, but do they stop ones in review?

WAIT TIMES

- When expedites arrive - AWARENESS
- PAYMENT ASSURANCE NOTIFICATION
- CLARIFICATIONS - INTER-AGENCY
- eDISCOVERY
- OTHER DOCUMENT SEARCHES
- WAITING ON OTHER OFFICES

WIP

MULTIPLE

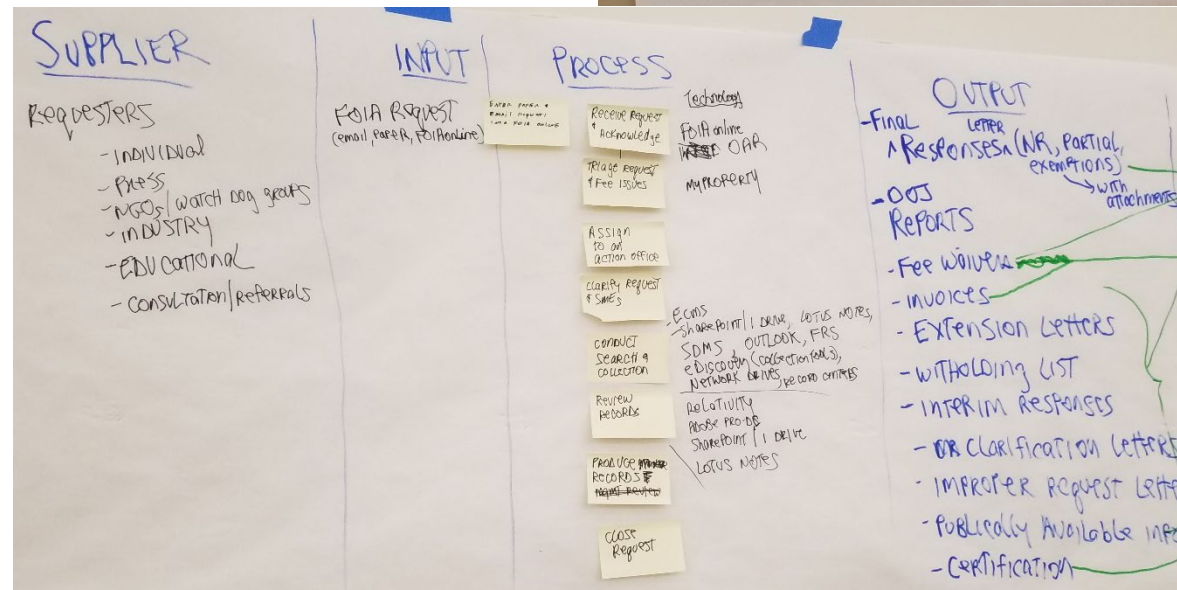
- Review
- eDiscovery

INTERIM RELEASES

REWORK

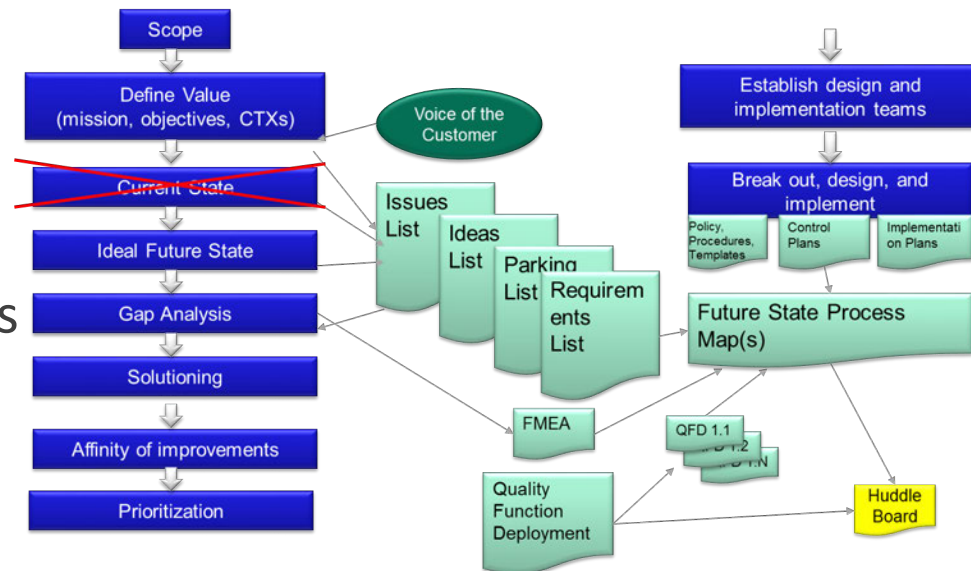
FROM REVIEWS 5-10%

ONEPIECE flow happens IN REVIEW AT R8 & OAR



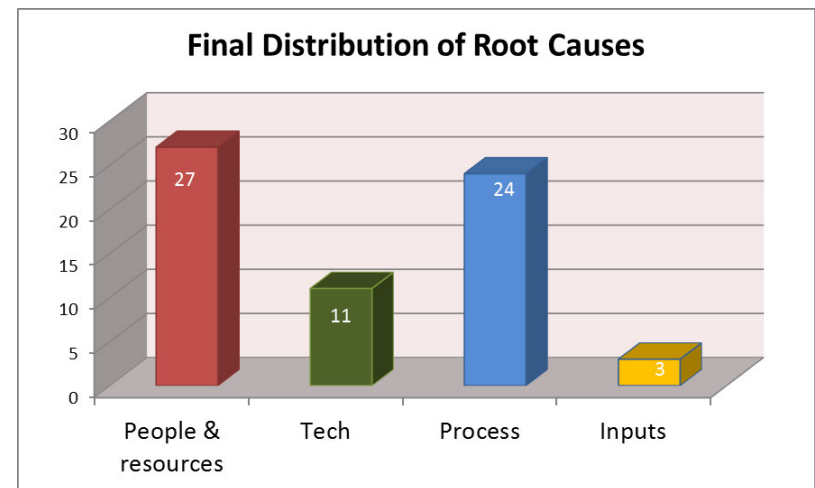
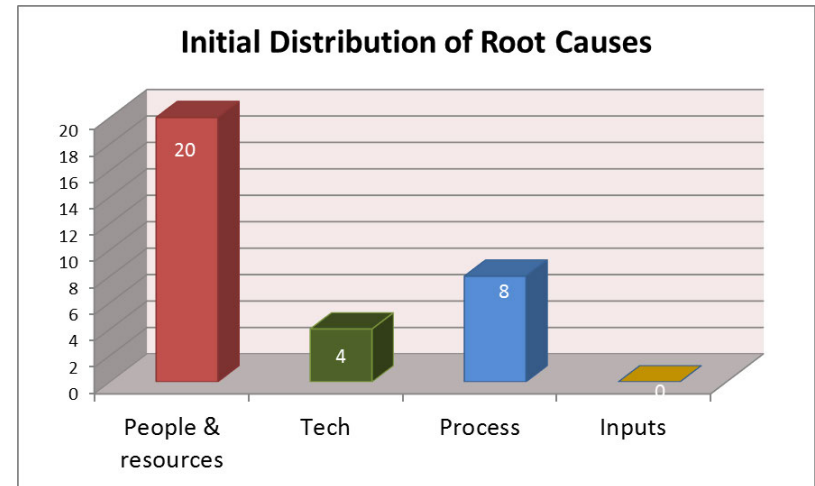
Analysis

- A strategic end to end analysis to discover the full spectrum of problems and solutions
- A top down and bottom up System analysis and design approach was used
- We Developed:
 - 4 Performance Goals
 - 68 Critical to Success Factors
 - >75 Issues
 - >35 Ideas
 - 13 Problem Statements
 - 16 Solutions/Recommendations
 - 8 Quick Wins



Analysis (cont.)

- Analysis shows a high number, but balanced portfolio of issues and concerns



Big Ideas

- Make all non legal emails public by default
- Improve and centralize input, intake, and triage to assign properly and enable rapid review – standardize across EPA
- Implement an automated analysis of key attributes in requests
 - Allow rapid response to certain types: My Property, Previous Request, Improper Request, Publicly Available
- Re-engineer the way reviews are conducted and provide authority needed to assign and get the job done quickly – standardize across EPA
- Create a FOIA Community of Practice to drive continuous improvement of personnel and processes
 - Process review and management
 - Share best practices
 - Train on new systems functionality
 - Celebrate victories
- Implement a robust cross system records management and search capability to drastically reduce the time spent searching for information/documents and reduce risk of litigation

Ideal FOIA Construct

GOALS	Consistently Meet Statutory Deadlines and Minimize Response Times	Minimize Lawsuits and Appeals	Consistent Accurate Response	Optimize Impact on Overall EPA Resources
<u>Critical To Success</u>				
Process				
Actionable Requests	9			9
Negotiate by Day 20	9	9		9
Handle Similar Requests in a Similar Way	9	9	9	9
Internal Transparency	9		9	9
Responsive in a Usable Format				
Responsive in a Preferred Format				
Easy Way to Find Previous Releases	9		9	9
Knowledge of How EPA Documents Things				
Conduct a Reasonable Search	9	9	9	9
Generate Required Reports				
Rapid Management Approval	9	9	9	9

Why These Solutions

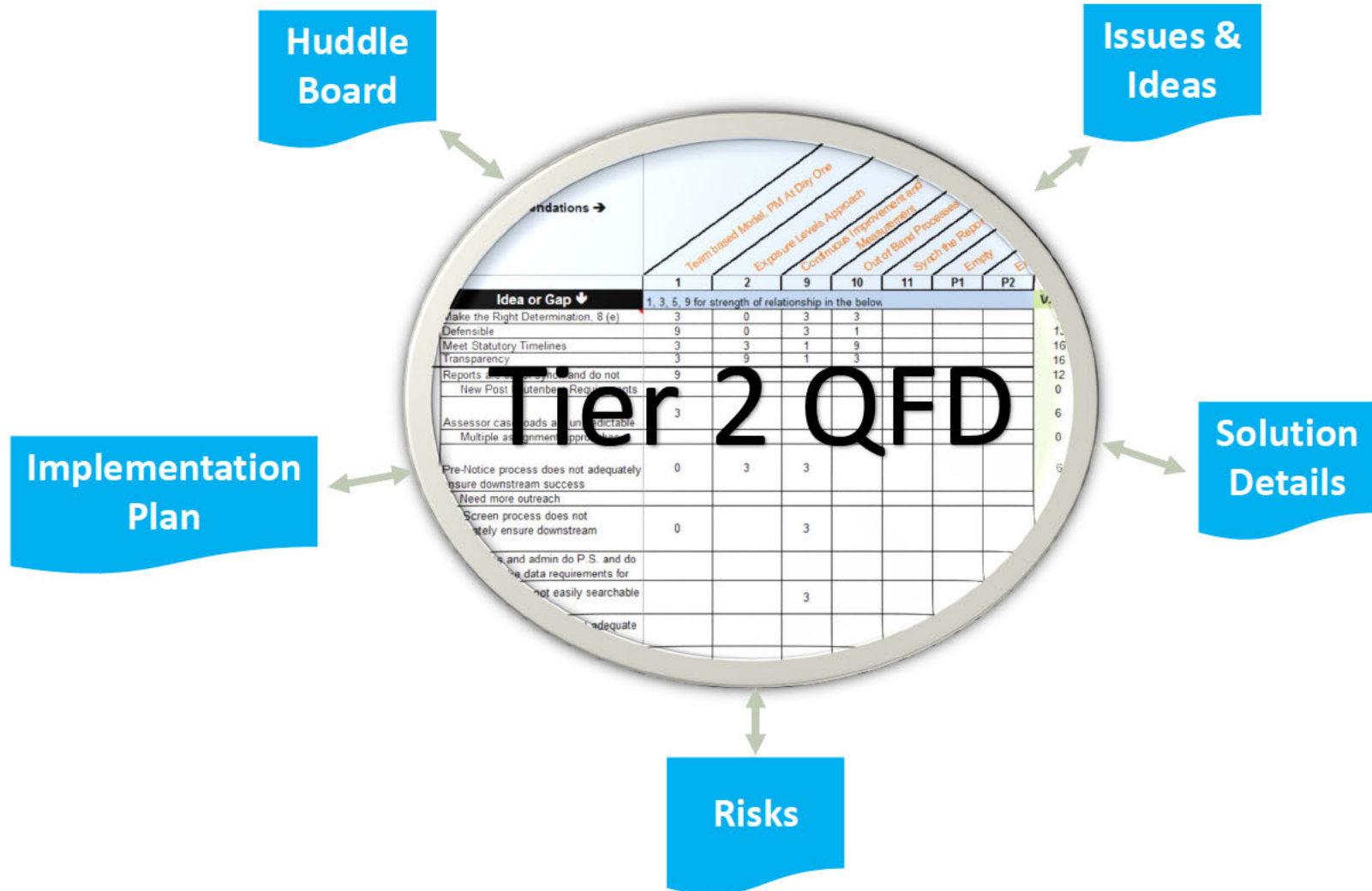
		FOIA Process - TOP QFD																	
	Recommendations →	Votes	<div>1. Improve Intake2. Implement Automated Analysis3. Improve Records Management4. Improve Searchability5. New Online Request Form6. Improve Awareness Review7. All Agency email Out on Public Website8. Improve Inter-agency Review Process9. Improve Review Process10. Provide Adequate Resources11. Improve FOIAonline Functionality/Interoperability12. Implement FOIAonline Training13. Change Culture14. Improve Authority via Policy15. Develop EPA FOIA Community of Practice16. Implement FOIA Request Utilization and Billing</div>																
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
	Idea or Gap ↓		Enter 1, 3, 5, 9 for strength of relationship in the below cells																VALUE
GOALS	Consistently Meet Statutory Deadlines and Minimize Response Times		9															9	
	Minimize Lawsuits and Appeals																	0	
	Consistent Accurate Response																	0	
	Optimize Impact on Overall EPA Resources																	0	
PROBLEM AREAS	The FOIA request process is inconsistent across the EPA and is heavily reliant upon the people from end to end, resulting in mistakes, inaccuracies, delays, increased legal risk, difficulty in management and tracking, and inhibits optimization of overall EPA resources.	12	9	9	9	3	9	9	1	9	9	9	3	3	3	9		94	
	The agency FOIA related technologies are either underutilized or not integrated, resulting in processing delays, inconsistent reviews, inefficient use of staff time, and redundant work efforts.	11	3	3	3	9					9	9	9	9		3		57	
	responsibility, an unwillingness to spend money on required technology, and fear of requests and requesters leading to poor work product, missed deadlines, demoralization, lack of trust and respect for FOIA and personnel and archaic systems technology.	10	1					3		3	3	3			9	3		25	
	Lack of adequately trained and knowledgeable personnel leads to improper and delayed assignments, compromised work product, and demoralization.	9	1									9			3	1	9	23	
	Lack of clear roles and responsibilities results in duplication of effort, lack of coordination and prioritization, delays arising from the need to resolve disputes/clarity responsibilities, failure to accept and complete assignment, and unfinished work.	8	3					1		3		1			3	9		20	
	Lack of FOIA resources (i.e. money, people, and time) result in delays, inconsistencies, inability to hire specialized personnel, an inability to buy and deploy adequate technology, staff demoralization, and lack of public trust.	5	3	3	3	9	3		9		9	9						48	
	FOIAonline features are not user friendly resulting in low/no quality data inputs (e.g., time, comms, billing costs, admin record, etc.).	4				1	9					9	9	9				37	
	The record review process requires multi-levels and equities resulting in missed deadlines, reduced public trust, and both increased legal risk and staff waiting.	1		1	3	3	3	9	9	9	9	3	1	1		9		60	
	Because EPA does not own FOIAonline, all enhancements/changes must go through a change control board resulting in the EPA's inability to adjust its process to make improvements.	0											3	3				6	
	sometimes prompted by Administrator comments resulting in more complex cases, a higher burden on resources, increased risk, extended cycle times, and decreased morale.	0	1		1		3		3									8	
	The assigned staff are not adequately demonstrating time and cost resulting in an underestimate of resources dedicated to FOIA processing and insufficient fee charging.	0										3	3	3	3	1	9	22	
	Lack of standard methods to communicate with requestors results in mismanaged expectations, delays, resource misallocation, legal risk, and poor public perception.	0	9	3			9				3		3	3		1		31	
	FOIAonline software is geared only for DOJ annual reporting, preventing EPA from collecting, tracking, and data analysis and learning regarding its own process.	0					3						9	9				21	
	Records management systems are underutilized and staff email practices generate excessive emails, resulting in increased records searches, need for review resources, legal risk, missing deadlines, and inconsistencies.	0	1	3	9	3			3		1	3	3					26	
	Strength of Problems			166	167	156	187	163	155	56	174	204	10	172		177	264	84	9

Break Out Teams (Optional where appropriate)

- Form, Intake, Triage
- Collection & Review
- Authority via Policy
- Technology

Assignment	Process Phases 1 & 2 Form, Intake, Triage	Process Phases 3 & 4 Collection & Review	Authority Via Policy	Technology	
Group #					<u>Floaters</u>
Facilitator	<u>Sieber</u>	<u>Angeline</u>			
Members	Jessica	Jonathan	Stephanie	Joan	Laura
	Lynn	Gretchen	Jennifer	Peter	
	Larry	Lisa	Wendy	Tim	
	Victoria	Brian		Alan	

Break Out Team Process

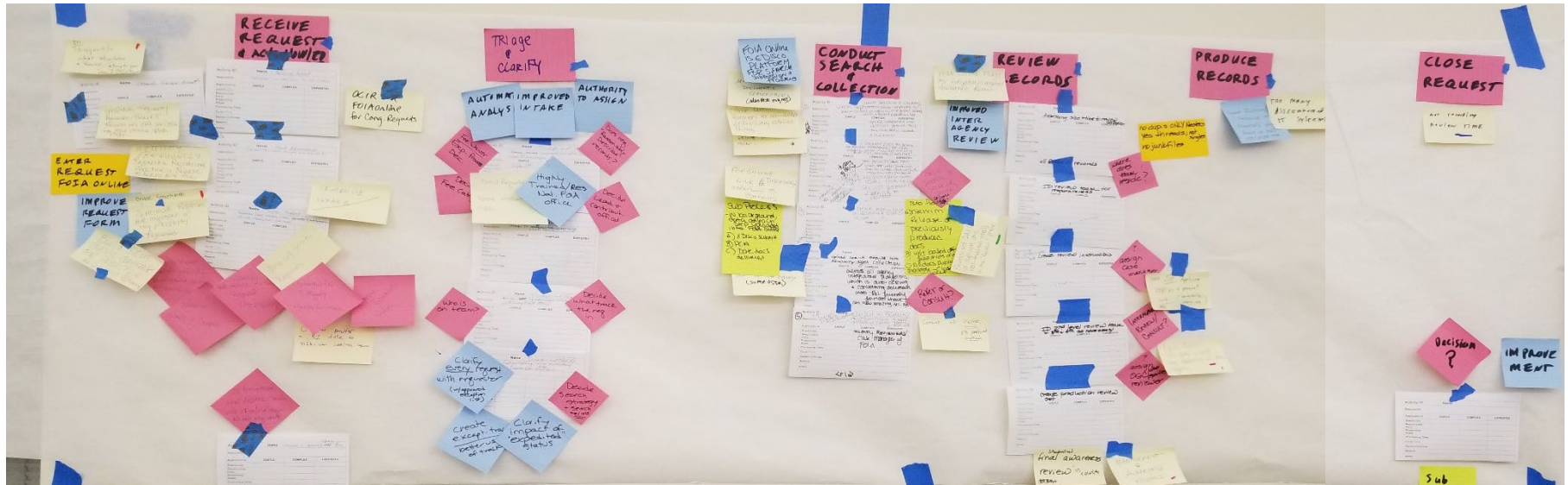




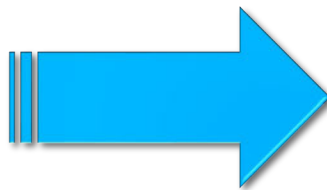
Process Teams

VICTORIA CLARKE & GRETCHEN BUSTERUD

Future State Process Map



- Automated Front End
- Centralized Intake
- Streamlined Reviews
- Interim Deadlines



- Rapid Response to Many Requests
- Significantly reduced workload
- Improve ability to meet deadlines
- Reduction of queues / WIP

Future State Process Map

EPA FOIA Request Process: To Be

Conduct Search and Collection

Review Records

Produce Records

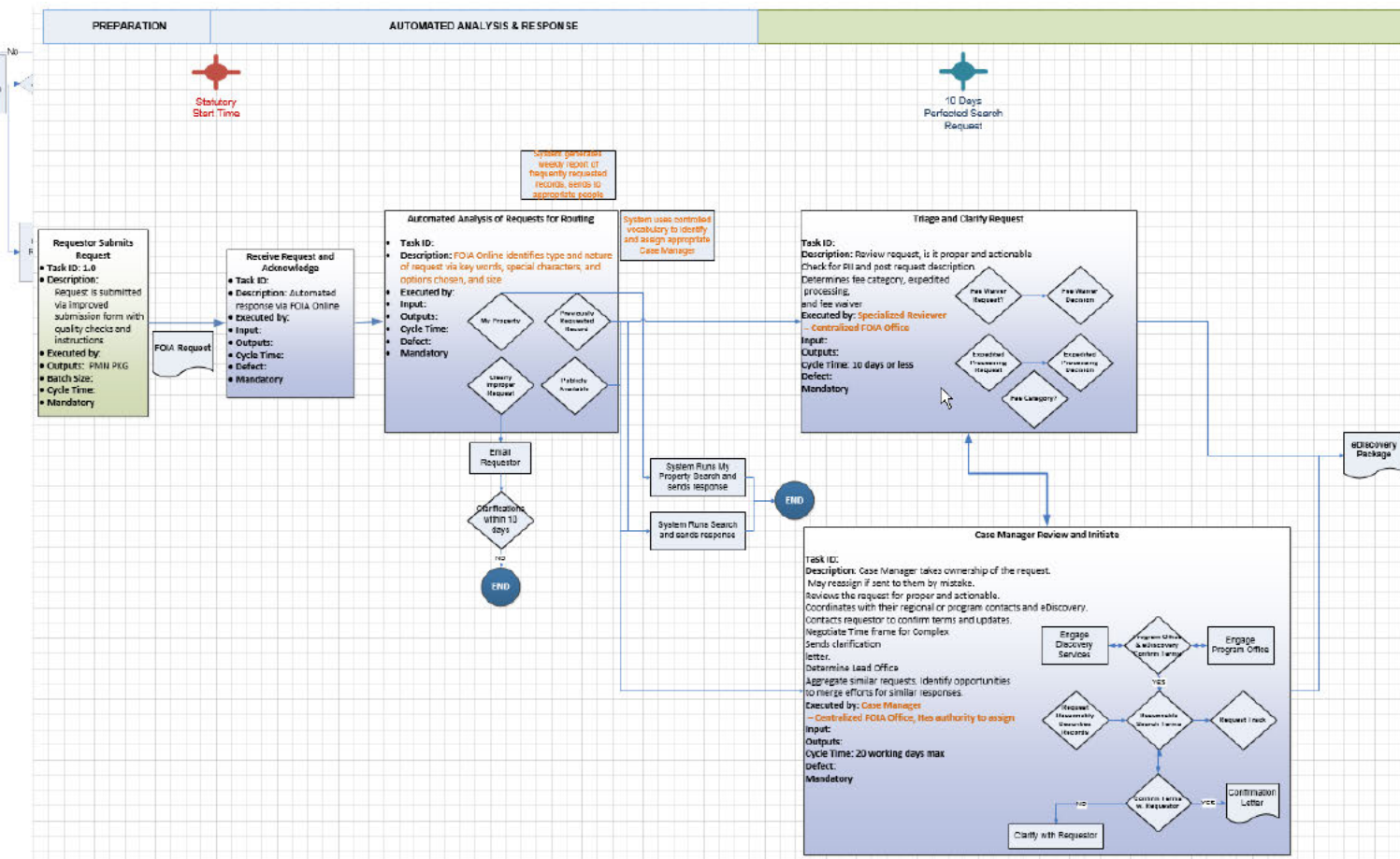
Close Request

Sub-Process 2.0

Conduct Pre-case Assessment (Discovery Services)

Refine Search Criteria with Case Manager

Discovery Services Authorized to Run Search



Documented
Electronically
- Needs clean up

EPA-HQ-2019-007635

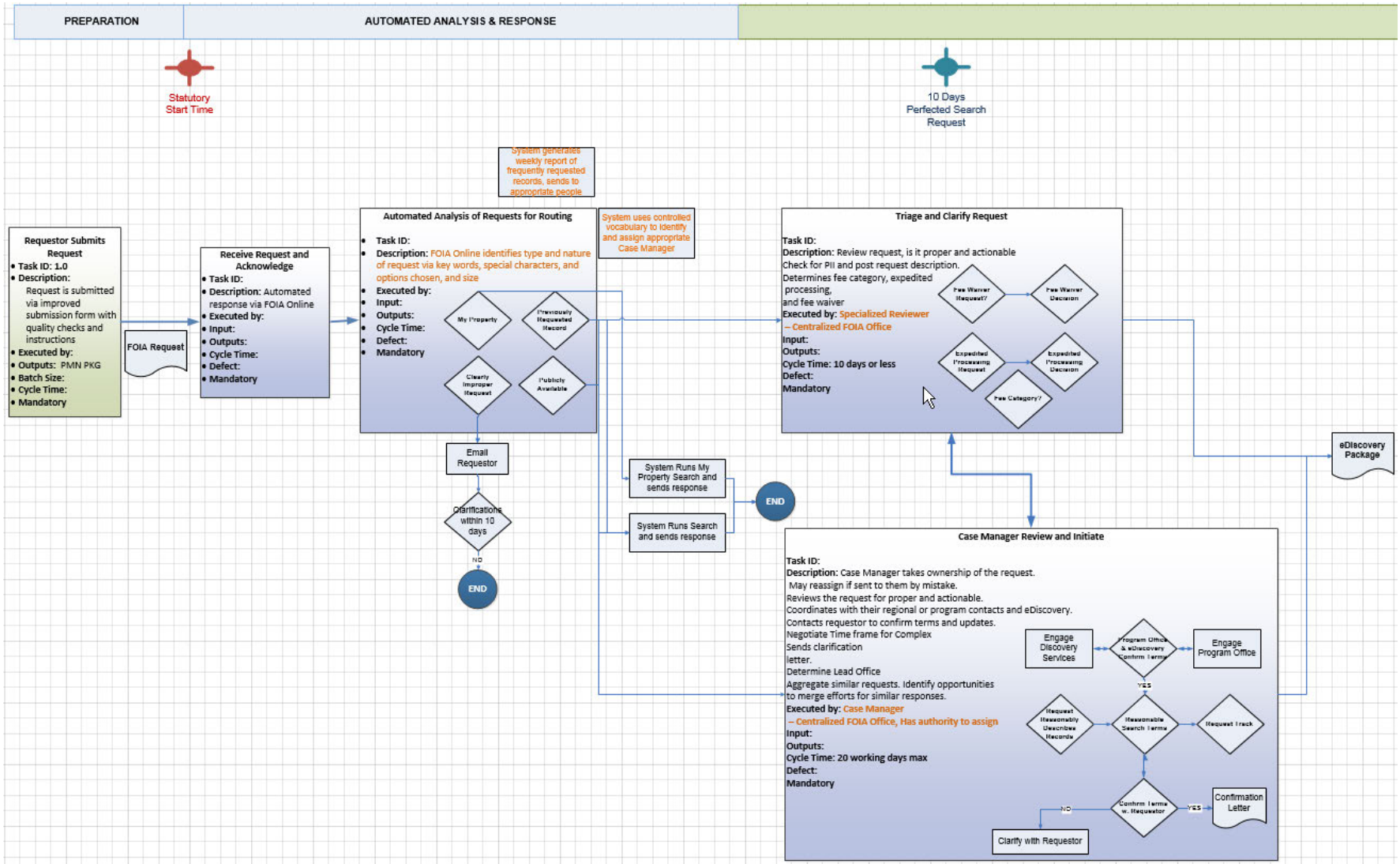
U.S. ENVIRONMENTAL PROTECTION AGENCY | OFFICE OF CONTINUOUS IMPROVEMENT



Process Changes – Intake & Triage

- Improve Intake Form
 - Drop downs
 - Key words
- Implement Automated Analysis and Response
 - My Property
 - Publicly Available
 - Previously Requested
- Centralize Intake responsibility and leverage new authority
- Identify FOIA Task Force Members
 - Embed and support crisis response
- Receive Daily Press Briefings

Future State Intake & Triage Map



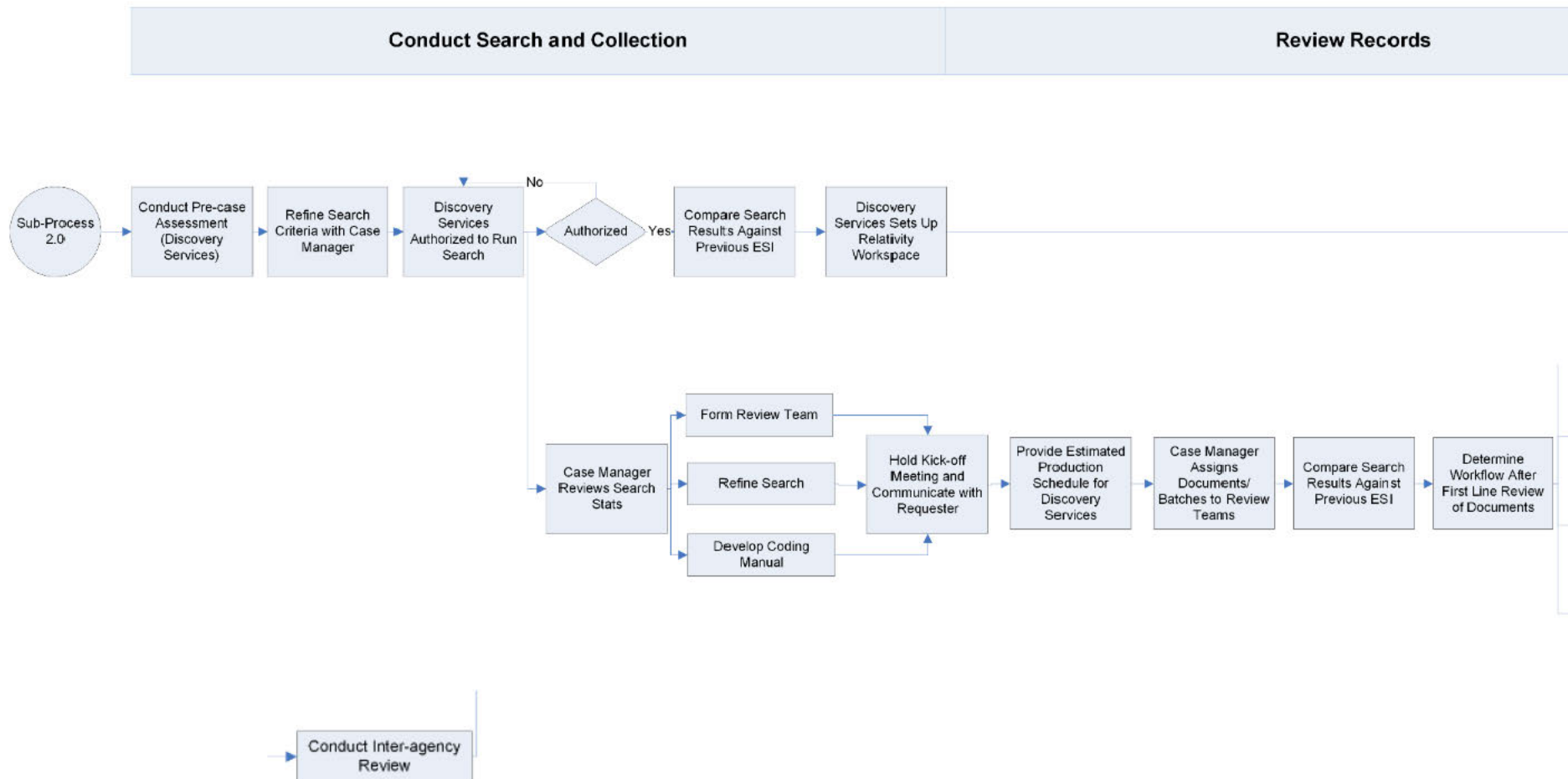
Intake & Triage Details

ID	RECOMMENDATION	DESCRIPTION/ CONTRIBUTING IDEAS
1	1. Improve Intake	<p>Centralize intake into a single national office Control ability to assign requests in FOIA online Substantive acknowledgement vs. form acknowledgement Automated responses for MyProperty, Previous, and Publicly Available Automated response for improper request</p> <ul style="list-style-type: none"> - Clarify what expedited process means - review for same and similar requests - method to identify which requests are likely to be repeated (e.g. news related) - Communicate with requestor up front - Be proactive in outreach to regular requestors - Program Office makes simple or complex decision - Create Exceptional Track - Assign right number of capable people to the centralized FOIA Office - Create structure databases for internet portals for self searching - Making sure the frequently requested records are available to be searched online. provide current hot requests on FOIA Online - automatically. - Proactively release records that we know are going to be requested - Identify the delinquent fee paying requestors
	Identify FOIA Special Task Force personnel for special situations	- Assign to emergency response teams from day one to begin preparing expected FOIA requests and managing rapid FOIA responses / postings
	FOIA receive daily press briefings	Receive daily press briefing so we have SA on what is coming and likely to be FOIA
2	2. Implement Automated Analysis	
5	5. New Online Request Form	<p>One online avenue of entry for FOIA Requests, across the agency Improved with drop down and data boxes for specific selections that will drive processing decisions Provides instant feedback and/or launches automated analysis of information selected & entered to generate automated responses Screens quality of inputs (dates, keywords, office dropdown, focus areas)</p>

Process Changes – Collection & Review

- Streamline Reviews
 - Establish Case Worker Model
 - Linkage between Exterro and FOIAonline and Relativity
 - Reorganize technology/FOIA group as a centralized unit
 - All large document production goes through Relativity/FOIAonline
- Streamline Inter-Agency Reviews
 - Establish a singular inter-agency review process

Future State Process Map



Collection & Review Details

ID	RECOMMENDATION	DESCRIPTION/ CONTRIBUTING IDEAS
1	1. Improve Intake	Establish linkage with Discovery Services for pre-case analytics. Put processed documents into a discovery tool for future intake.
2	2. Implement Automated Analysis	Linkage between Extreo, FOIAonline, and Relativity required for producing public documents, tracking time/cost, documenting work practices, and producing records for FOIA. Systems need to establish interoperability. Analyze data integrity and establish
3	5. New Online Request Form	
4	6. Improve Awareness Review	
5	8. Improve Inter-agency Review Process	
		Linkage between Exterro and FOIAonline and Relativity
		Develop technology to replicate already coded documents
		Reorganize technology/FOIA group as a centralized unit
		Align Authority with Reorganization
		Define and establish first line review corps
		Define and establish case managers
		Define and establish Relativity case admins.
		Expand Discovery Services (e.g., search, collection, processing, and Relativity)
		Establish one point of intake of a perfected FOIA
		Institutionalize case management from beginning to end
16	9. Improve review process	
		Provide metrics for tracking workflow, cycle time, and fees
		Case manager identifies expedited requests
		Establish a singular inter-agency review process
		Streamline the review process
		All large document production goes through Relativity/FOIAonline (e.g., information requests, Congressionals, etc.)



Authority Team

WENDY SCHUMACHER

Authority Changes

- **Update FOIA Regulations**
- **Add FOIA to PARS**
- **Update FOIA Policy; Guidance and SOPs reflecting increase in authority and clarifying roles.**
- **Update 1-30 to delegate signature authority**
- **Roll out standard naming convention for records and correspondence**
- **Enable Culture Change**
 - **Identify and fund training and professional enrichment opportunities for FOIA professionals**
 - **Reclassify all FOIA professionals to 0306 series**
 - **Awards for FOIA work**

Authority Solutions

ID	RECOMMENDATION	DESCRIPTION/ CONTRIBUTING IDEAS	EXPECTED BENEFIT	APPROVED	OWNER	On Proc Map
14	14. Improve Authority via Policy	Policy changes focused on increasing the authority of FOIA professionals and clarifying roles and responsibilities within the agency.	Improved processing time, consistent responses which optimizes fewer agency resources.		Senior Management - OGC and OA	All
14.1	Update FOIA Regulations	Publish draft FOIA Regulations; address comments; and promulgate final Regulation.	Improves internal and external understanding of roles and responsibilities.		OGC	All
14.2	Add FOIA to PARS	Making employees accountable for FOIA responsibilities as a key function and not other duties as assigned.	Management will provide employees with time and resources to complete FOIA work. Employees will be accountable for their FOIA work.		OARM - HR	Collect and Review Records
14.3	Update FOIA Policy; Guidance and SOPs reflecting increase in authority and clarifying roles.	Updating FOIA policy; guidance; and SOPs to increase consistency in responses and allow decision making at the appropriate level by the proper organization.	Clearer and faster resolution of intra-agency disputes leading to more timely and complete responses using appropriate resources.		OGC	All
14.4	Update 1-30 to delegate signature authority	Revise the delegation of authority to FOIA Officer for letters for which there are limited disposition (e.g., withdrawn, extensions, refer to web sources for records)	Faster processing times and better allocation of resource.		OGC	Produce Records
14.6	Roll out standard naming convention for records and correspondence	Basic naming convention for records and correspondence with sufficient elements to distinguish the record type and disposition.	Fewer requests because previously released records are more searchable. Faster uploads into FOIAonline which improves data quality.		OEI	Collect, Review and Release Records
15	15. Culture Change	Elevating and professionalizing FOIA work so that it is regarded across the agency as mission critical.	Elevated employee morale; appropriate level of resources; and improved compliance with the FOIA which is recognized as mission critical work.		EPA Senior Managers	All
15.1	Identify and fund training and professional enrichment opportunities for FOIA professionals	Ensure FOIA professionals have the training to successfully complete FOIA work in the evolving technology and legal world.	Increased confidence and competency of FOIA professionals to result in		EPA Senior Managers	All
15.2	Reclassify all FOIA professionals to 0306 series	Professionalizing the workforce with appropriate grade and skills to complete the work required and reflect the complexity of the FOIA.	Increased confidence and competency of FOIA professionals to result in higher quality work.		OARM - HR	All



Technology Team

TIM CRAWFORD

Technology Summary

- Implement Automated Analysis
- Improve Records Management
- Improve Searchability
- New Online Request Form
- Improve FOIAonline Functionality/Interoperability
- Implement FOIAonline Tweaks

Technology Solutions

ID	RECOMMENDATION	DESCRIPTION/ CONTRIBUTING IDEAS	EXPECTED BENEFIT
2	2. Implement Automated Analysis	Update FOIAonline and Relativity Software to provide cradle to grave analysis	Automate to the extent possible
3	3. Improve Records Management	Expand and require minimum metadata for records uploaded in FO to improve search ability and reuse	improve reuse and reduce duplicative effort
4	4. Improve Searchability	FOIAonline--require minimum metadata to be entered to better describe and categorize requests and records to improve searchability.	
		eDisco--maximize tools in 9.5 release including training	
5	5. New Online Request Form	Expand request form to include additional information to capture and help direct the requester to provide sufficient information to properly describe records being sought	reduce reachback to requester, improve request assignment
11	11. Improve FOIAonline Functionality/Interoperability	Create interoperability between FOIAonline and eDisco	
12	12. Implement FOIAonline Tweaks	Expand the customization of agency specific metrics sufficient to manage their unique FOIA program	
		Create community to review enhancement requests and prioritize functional enhancements	
		Change the default the tab does return to page one after opening a doc	
		consider eSignature	
		Standardize comment boxes with dropdowns	
		Add flags for litigation and awareness review	
		Add checkboxes to indicate review sequence so you know when the final review is complete	
		Create the ability to add exemptions at the point of record upload	
16	16. Implement FOIA Resource and Utilization and Billing Report	Maximize the workflow tracking tools in eDiscovery to capture time spent searching and reviewing docs and have that information sent to the case file in FOIAonline	

Improvement Actions: Next Steps

#	Assigned Date	Action to be Taken	Action Owner	Due Date	Percent Complete				Completed Date
1		Leadership Approval for Initiatives			25	50	75	100	
2		Conduct Intake and Triage Event			25	50	75	100	
3		Conduct Collection and Review Event			25	50	75	100	
		Complete Awareness Notification Improvement			25	50	75	100	
4		Enhance FOIA Community of Practice			25	50	75	100	
5		Assess Automation Technologies and Approaches to Implementation			25	50	75	100	
6		Obtain Automation Resources and Implement			25	50	75	100	
7		Implement, Train, Validate Improvements from Events			25	50	75	100	
8		Implement Measurement and Visual Management			25	50	75	100	
9		Conduct a data analysis and FOIA analytics improvement initiative			25	50	75	100	
10		Revise policies and procedures to reflect appropriate FOIA authority			25	50	75	100	

Performance Board

PEOPLE					CELEBRATIONS									
<p>INPUTS:</p> <p>Dedicated group of highly trained Boolean search terms IT professionals Relativity Case Administrators Analytics certified admins Super-users First line reviewers</p> <p>OUTCOMES:</p> <p>Increased morale</p> <p>Decreased workload Less litigation Optimized resources Best practice sharing Minimize the number of rounds of clarification All related positions are filled</p> <p>OUTCOMES:</p> <p>FOIA Community of Practice Appropriate Staff Level and Skill Sets Improved usability saves time / resources Real-time training and user guides Using existing tools to satisfy complete case management (e.g., SharePoint, One Drive, E-signatures)</p> <p>OUTCOMES:</p> <p>Using new authority</p> <p>Improved EVS survey results of FOIA FEAT Ops More direct contact with requesters Fewer levels of review or escalation of FOIA responses and of Faster times to close straight-forward requests Buck stops here on internal disputes Staff find steps manageable Compliance with EPA policies at all levels</p>					<p>INPUTS:</p> <p>Clear delegation of authorities; policies and procedures EVS results Phone calls and emails with requesters (documented in FOIAonline) Time used to complete tasks in FOIAonline Delegation of signature authority Fewer reassignments in FOIAonline Clear SOPs FOIA responsibilities in PARS</p>					<p>INPUTS:</p> <p>One EPA equals one system for ESI One EPA equals one system for FOIA process</p> <p>INPUTS:</p> <p>Standard PARS Language Establish naming convention Updated 1-30 OPM Standard adopted Nominations for awards</p>				
<p>OUTCOMES:</p> <p>Retention of personnel Creation of new intake form Minimize SME review time</p> <p>OUTCOMES:</p> <p>Reduce Lawsuits Reduce Overdue Requests Reduce Case Backlogs</p> <p>OUTCOMES:</p> <p>FOIA responsibilities in PARS Completed reorganization Roll out naming convention Completed redelegation Reclassification to GIS Awards for FOIA</p>														
IMPROVEMENT ACTIONS														
#	Assigned Date	Action to be Taken	Action Owner	Due Date	Percent Complete				Date Completed					
1		PROCESS Intake			25	50	75	100						
2		Follow on Lean Event for Form, Intake, & Triage			25	50	75	100						
3		Update FOIA Regulations			25	50	75	100						
4		Complete the related organizational changes			25	50	75	100						
5		Implement new intake form			25	50	75	100						
6		Identify tech for automated analysis and obtain or build			25	50	75	100						
7		Identify required resources for implementation			25	50	75	100						
8		Implement metrics, quality review, reporting, improvement -- COP			25	50	75	100						
		PROCESS Collection & Review												
		Linkage between Entero and FOIAonline and Relativity												
		Develop technology to replicate already coded documents												
		Reorganize technology/FOIA group as a centralized unit												
		Align Authority with Reorganization												
		Define and establish first line review corps												
		Define and establish case managers												
		Define and establish Relativity case admins.												
		Expand Discovery Services (e.g., search, collection, processing, and Relativity)												
		AUTHORITY												
		Update FOIA Regulations												
		Add FOIA to PARS												
		Update FOIA Policy reflecting increase in authority												
		Update FOIA Guidance												
		Update FOIA SOP												
		Update 1-30 to delegate signature authority												
		Reclassify all FOIA professionals to 0306 series												
		Roll out standard naming convention for records and correspondence												
		Identify and fund training and professional enrichment opportunities for FOIA professionals												
		TECHNOLOGY												
		Upgrade FOIAonline to 3.0	OEI											
9		Upgrade eDisco 9.5	OEI		25	50	75	100						
10		Modify FO request form	OEI/Agency		25	50	75	100						
11		Explore interoperability options	OEI/Other?		25	50	75	100						
21					25	50	75	100						
22					25	50	75	100						

<p>INPUTS:</p> <p>Optimized resources</p> <p>OUTCOMES:</p> <p>Number of resulting lawsuits Cost of resulting lawsuits Consistency of responses Accuracy of responses Impact on EPA resources Complete and accurate eDiscovery Packages % properly adjudicated fee waiver expedited processing determinations % properly adjudicated assigned requests decrease in number of improper requests</p>	<p>INPUTS:</p> <p>Standard Work on Proper exemptions, Entering Documents, and correspondence in FOIA Online</p> <p>Standardized templates available Fewer reassignments in FOIAonline and clear SOPs</p> <p>OUTCOMES:</p> <p>Properly apply exemptions in FOIAonline Documents properly entered in FOIAonline including unredacted version Proper use of standardized templates Minimize number of reassignments</p> <p>OUTCOMES:</p> <p>Improved Request submission Automatically Spawn Search Criteria Automatically Ingest Production Sets Enforce data integrity Fully implement eDiscovery Analytics</p>
<p>INPUTS:</p> <p>Optimized resources</p> <p>OUTCOMES:</p> <p>Cycle Time Statutory Deadlines Speed of assignment Fee waiver and exped Number of incoming Number of requests</p>	<p>INPUTS:</p> <p>Optimized resources</p> <p>OUTCOMES:</p> <p>Shorter Turnaround times (Technology All Users have access to Adobe Pro for E- Access/Availability to Technology Tools Performance Improvements Interoperability between system platforms All ESI must be in Microsoft applications eDiscovery maintains repository of</p>
<p>INPUTS:</p> <p>SOPs Updated 1-30 Guidance document Guidance document Professionalized staff Trained and empowered staff</p> <p>OUTCOMES:</p> <p>Faster responses and more con Less time on management review Less time on intra-agency dispute Fewer reassignments Optimized resources with limited Higher level of trust from manag</p>	<p>OUTCOMES:</p> <p>Faster responses and more con Less time on management review Less time on intra-agency dispute Fewer reassignments Optimized resources with limited Higher level of trust from manag</p>

EPA-HQ-2019-007635

U.S. ENVIRONMENTAL PROTECTION AGENCY | OFFICE OF CONTINUOUS IMPROVEMENT



Questions and Discussion

Thank You!

From: [Epp, Timothy](#)
To: [Leadership Assistant Administrators](#); [Leadership Associate Administrators](#); [Leadership Deputy Assistant Administrators](#); [Leadership Deputy Associate Administrators](#); [Leadership Deputy Regional Administrators](#); [Leadership Regional Administrators](#); [Regional Counsel Contacts](#); [Regional FOIA Officers](#); [Deputy Regional Counsels](#); [FOIA Coordinators](#); [FOIA Officers](#)
Cc: [Brazauskas, Joseph](#); [Grantham, Nancy](#); [Richardson, Robin](#); [White, Elizabeth](#); [Packard, Elise](#); [Cozad, David](#); [Gottesman, Larry](#); [Leopold, Matt \(OGC\)](#); [Siciliano, CarolAnn](#); [OGC NFO](#); [Hoveman, Taylor](#)
Subject: July 2019 EPA FOIA Backlog Report
Date: Wednesday, July 3, 2019 10:27:41 AM
Attachments: [pastedImage.png](#)
[pastedImage.png](#)

Colleagues,

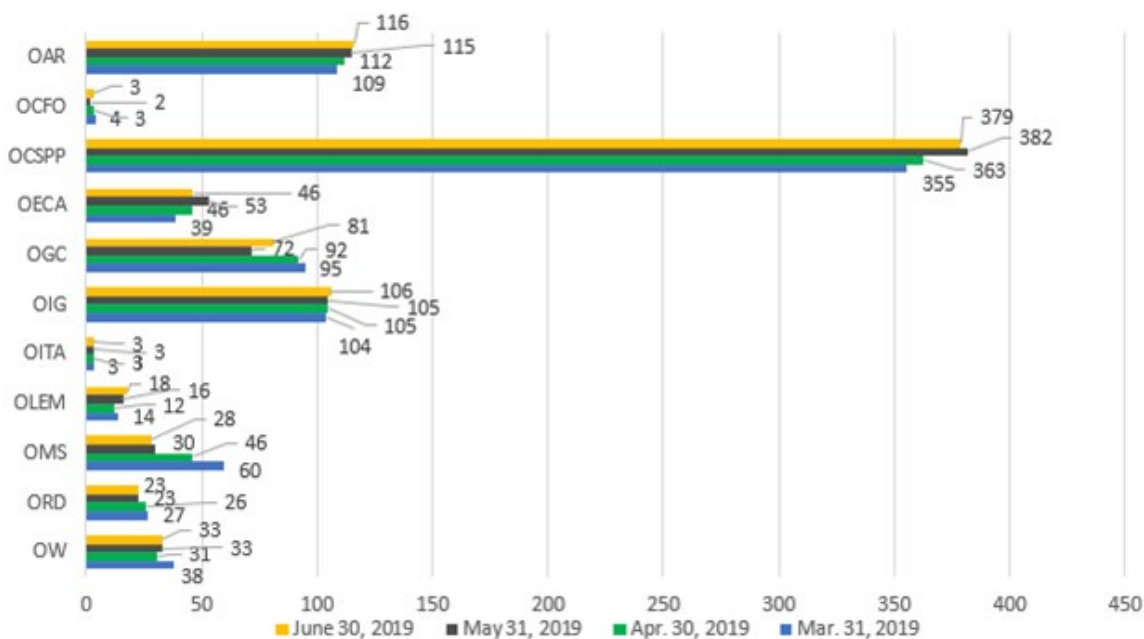
The charts below show the FOIA backlog in the headquarters program offices and the regions at the end of June, May, April, and March.

The Agency's overall FOIA backlog again declined in June continuing a five month trend. The Office of the Administrator led the Agency's backlog reduction by a decline of 45 in June. Congratulations to Region 1 for an end of month backlog of 0. Region 8 is the only office that had no backlog at the end of May.

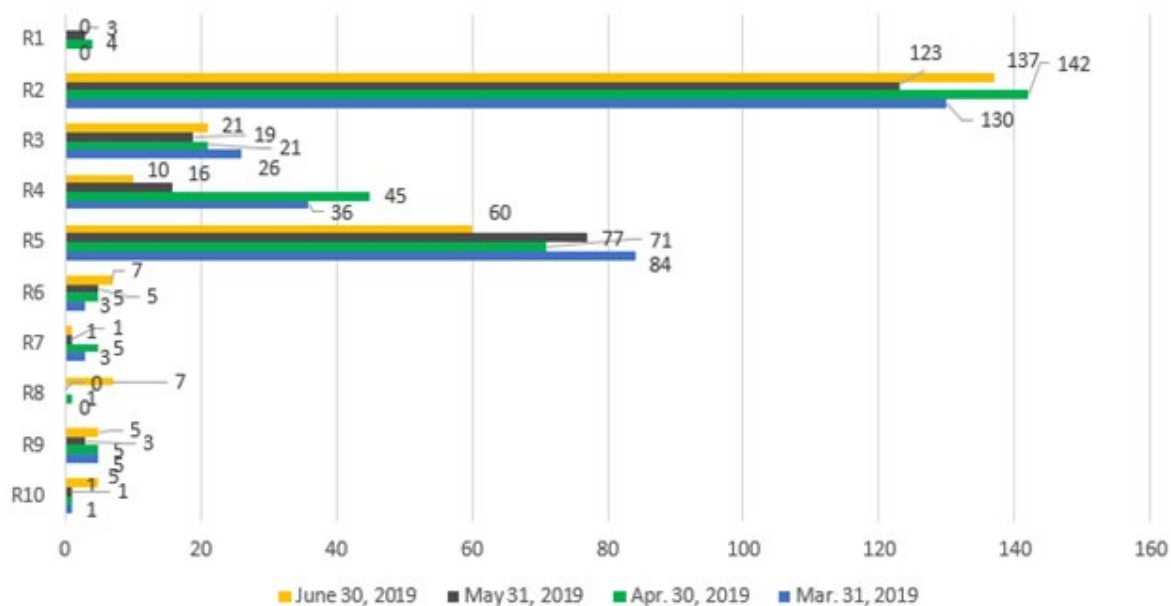
The Backlog in a few offices increased in May. Overall, the Agency remains behind on its goal of reducing the FOIA backlog this fiscal year and, therefore, we need continued effort by all. A few offices were affected by a delay in processing tasks in another office -- we are working with the FOIA Officers and Coordinators to reduce those situations.

The backlog in the Administrator's Office was 1,259 at the end of June, which is down from 1,304 at the end of May, (and 1,354 at the end of April, and 1,405 at the end of March and 1,455). The Agency's backlog was 2,348 at the end of June 2019, the second consecutive month that the Agency's backlog was lower than it was at the beginning of the fiscal year.

Headquarters FOIA Backlog as of June 30, 2019



Regional FOIA Backlog as of June 30, 2019



For this report, backlog is defined as FOIA requests pending for more than 20 days as of the end of the month and for which an extension was not documented in the FOIAonline tracking system. In his November 12, 2018 FOIA Memorandum, Administrator Wheeler directed the National FOIA Office to circulate monthly a report of the FOIA request backlog at EPA.

The February data in this report was produced from FOIAonline on March 1, 2019; the March data on April 1, 2019; the April data on May 1, 2019, and the May data on Monday, June 3, 2019. If you would like to discuss this data, what additional data you would like to see reported, or to discuss ideas on how we can more rapidly reduce the Agency's FOIA backlog and more effectively meet the Agency's FOIA responsibility, please contact me at epp.timothy@epa.gov or at (202) 564-2830.

Tim

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